

circumstance has given rise to great diversity of opinion as to the mode in which it may be effected. It has been contended, on the one hand, that if the Legislature is not alone clothed with this highest attribute of sovereignty, it has the exclusive right to direct the time when, the agents by whom, and the manner in which it shall be exercised; and that the acts of a Convention assembled without legislative sanction, would be unauthorised and void. On the other hand, it is insisted that no change of the fundamental law can be legitimate, unless it proceed from the people in their primary assemblies; and that all action upon the subject by the Legislature is an usurpation of power. I apprehend that neither position is true to the extent which is sometimes contended. That all political power is vested in and derived from the people only, is a leading principle in our Bill of Rights, and it would seem to be a necessary deduction from it, that they have, in the absence of all stipulation upon the subject, the right to determine in what manner it shall be exercised. Without entering into any formal reasoning upon the subject, however, or even looking abroad for authority, it is believed that the argument may be safely rested upon the precedents which have come down to us, clothed with the sanction of the framers of the Constitution, and of the two successive Conventions to which it has been submitted for amendment. It will not be contended that the Constitution cannot be amended, or entirely abrogated, and a new system adopted, by the same power, exercised in the same manner, which gave existence to the former. The incipient measures towards the adoption of the present Constitution, proceeded neither from the Legislature nor from the people in their primary assemblies; nor was it framed by delegates chosen for that purpose only.

On the 9th of August, 1776, the Council of Safety, which consisted of two members from each of the six judicial districts in the State, appointed by the Provincial Congress which assembled at Halifax in April preceding, adopted the following resolution:

"The representatives of the United States of America, in general Congress assembled, at Philadelphia, the 4th day of July, 1776, having determined that the thirteen United Colonies are free and independent States, and in consequence thereof having published a Declaration of Independence:

"*Resolved*, That it be recommended to the good people of this *now independent State* to pay the greatest attention to the election, to be held on the 15th of October next, of delegates to represent them in Congress, and to have particularly in view the important consideration, that it will be the business of the delegates then chosen, not only to make laws for the good government of, but also to form a Constitution for this State; that this last, as it is the corner stone of all law, so it ought to be fixed and permanent; and that according as it is ill or well ordered, it must tend in the first degree to promote the happiness or misery of the State."

The delegates elected to the Provincial Congress, in pursuance of this recommendation, convened in Halifax in the month of December following, and in addition to the discharge of the ordinary legislative, judicial and executive duties, adopted the present system of fundamental law. The Constitution thus formed has twice undergone amendment. In 1788, the Convention which assembled to consider the Federal Constitution, in compliance with "a recommendation of the General Assembly to that Convention," to consider the propriety of extending to the town of Fayetteville the right of representation in the General Assembly, passed an ordinance for that purpose. The Convention which, in the month of November of the following year, adopted the Federal Constitution, acting under a similar recommendation from the General Assembly, passed the ordi-